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SEA

SERVICE DATE – NOVEMBER 21, 2005

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-33 (Sub-No. 226X)

Union Pacific Railroad Company – Abandonment Exemption – in Cameron County, TX

STB DOCKET NO. AB-654X

**Brownsville & Rio Grande International Railroad Company – Discontinuance of Service –
In Cameron County, TX**

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) and Brownsville & Rio Grande International Railroad (B&RG) (jointly Applicants) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F – Exempt Abandonments and Discontinuances of Service for UP to abandon, and for B&RG to discontinue service over 2.2 miles of railroad between milepost 0.00, near UP Main Switch, and milepost 2.20, near Arthur Street, in Cameron County, TX. The “Line” traverses United States Postal Service Zip Codes 78520 and 78521. UP and B&RG have certified that no local traffic has moved over the line for at least two years. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances, and dispose of the right-of-way. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA).

DESCRIPTION OF THE LINE

The line to be abandoned was constructed by the St. Louis, Brownsville & Mexico Railway Company; date unknown. The line travels through older, predominantly residential communities of Brownsville. The right-of-way is generally flat and travels in a northeasterly direction. The width along the right-of-way varies up to 100 feet. The line consists of a combination of 90, 115 and 122 pound rail. The Applicants anticipate that no structures 50 years or older will be affected by the proposed abandonment. Applicants state that approximately 80 percent of the track right-of-way is contained within the existing street right-of-way, and of that, 40 percent is open to the public while 60 percent is inaccessible to traffic. Based on information in the Applicants’ possession, the line does not contain any federally granted right-of-way. Property along the line is under fee simple ownership and use by franchise ordinance granted by the City of Brownsville.

If the abandonment becomes effective, the Applicants believe that the best use for the corridor would be the continued and future use as public streets. Other possibilities include

reversion of various fee simple apportionments to residential use, and recreational trails use. Following abandonment, the City of Brownsville will continue to receive rail service from UP, B&RG, and the Burlington Northern Santa Fe Railway Company (BNSF). Cross-border service will continue to be provided by the Mexican railroad carrier TFM, and ocean shipping service will continue at the Port of Brownsville.

ENVIRONMENTAL REVIEW

The Applicants submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The Applicants served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (the Board) environmental rules [49 CFR 1105.7(b)]. The Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

As stated above, no traffic has moved on the line segment within the last two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

The Brownsville Metropolitan Planning Organization (MPO) commented that the proposed abandonment is consistent with their adopted land use plans and policies, and the abandonment would remove the possibility of potential mishaps or injury at the at-grade road crossings. The MPO views the request favorably.

It is anticipated that this proposed abandonment would not have an adverse impact on public health and safety because there will be no diversion of rail traffic to other modes. Short-term impacts on noise levels associated with salvaging activities would not be significant. The Applicants are not aware of any hazardous waste sites or hazardous materials spills along the line.

The U.S. Department of Agriculture, Natural Resources Conservation Service commented that the subject abandonment will not have an adverse impact on farmland soils.

The Applicants state that the proposed abandonment is not subject to the coastal zone consistency requirements of 49 CFR 1105.9. However, given the close proximity to the Gulf of Mexico, SEA has determined that the proposed abandonment may be subject to the Texas Coastal Zone Program, and has since added the Coastal Coordination Council to the service list. Accordingly, SEA will recommend a condition requiring UP to consult with the Coastal Coordination Council to determine consistency with the Coastal Zone Management Program prior to salvage activities.

The National Geodetic Survey (NGS) has identified one (1) geodetic station marker that may be affected by the proposed abandonment. If there are planned activities which will disturb or destroy this marker, the Applicants are required to notify the NGS 90 days prior to the onset of salvage activities in order to plan for possible relocation.

The Applicants contacted the U.S. Fish and Wildlife Service, Region 2, and the Texas Parks & Wildlife to determine if the proposed abandonment is likely to have an adverse impact on any Federally-listed species, or adversely modify any areas designated as critical habitats. To date, both agencies have not provided a response. Accordingly, SEA recommends that a condition be imposed requiring UP, prior to the commencement of any salvage activities, to complete the consultation process.

The National Park Service has not provided comments at the time this EA was prepared. However, impacts to wildlife sanctuaries, refuges, and national or state parks or forests are not anticipated because the line is located in an urbanized area.

The U.S. Army Corps of Engineers (USACE) has not provided comments as to whether the proposed abandonment will require a permit under Section 404 of the Clean Water Act. Accordingly, SEA recommends that a condition be imposed requiring UP to consult with the USACE prior to commencement of salvage activities, and report the results to the SEA in writing.

The U.S. Environmental Protection Agency (USEPA) has not provided comments at the time this EA was prepared on impacts to Section 402 of the Clean Water Act. Therefore, SEA recommends a condition be imposed requiring UP to consult with the USEPA prior to commencement of salvage activities, and to report the results to SEA in writing.

HISTORIC REVIEW

The Applicants submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Texas Historical Commission (SHPO), pursuant to 49 CFR 1105.8(c). The Applicants indicate that there are no structures fifty years or older in age on the line that will be affected by the abandonment. Based on the Applicants' historic report, SEA does not believe there are any historic properties involved in the proposed abandonment that meet the criteria for listing on the National Register of Historic Places (National Register). The SHPO has submitted comments stating that the proposed abandonment will have no effect on historic properties. Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have reviewed the report and information provided by the SHPO and concur with the SHPO's comments.

SEA conducted a search of the National Park Service's Native American Consultation Database and Volume 67, No. 134 of the July 12, 2002 Federal Register notice regarding tribes that may have an interest in the project. SEA is required to consult with tribes pursuant to 36

CFR 800.3(f)(2) to seek their input regarding any National Register eligible properties of traditional religious and cultural significance that may be affected by the proposed abandonment. The data base and Federal Register notice provided information on Federally recognized tribes that may have ancestral connections to the project area and may therefore have an interest in the project's potential impacts on any areas of tribal interest. The tribes include the Tonkawa Tribe of Indians of Oklahoma, and the Kickapoo Traditional Tribe of Texas. SEA has added the tribes to the service list for this proceeding to ensure they receive a copy of this EA for their comment.

CONDITIONS

We recommend that the following conditions be placed on any decision granting abandonment authority:

1. Prior to conducting salvage activities, Union Pacific Railroad Company (UP) shall consult with the Texas Coastal Coordination Council to determine whether coastal zone consistency certification in accordance with the Texas Coastal Zone Program is required. If consistency certification is required, UP shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify the Board's Section of Environmental Analysis, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.
2. The National Geodetic Survey has identified one (1) geodetic marker that may be affected by the proposed abandonment. Therefore, UP shall notify the National Geodetic Survey 90 days prior to the onset of salvage activities in order to plan for its possible relocation by the National Geodetic Survey.
3. Prior to commencement of any salvage activities, UP shall consult with the U.S. Fish and Wildlife Service and the Texas Parks & Wildlife regarding potential impacts from salvaging activities to Federally-listed threatened or endangered species that may occur in the vicinity of the line. The railroad shall report the results of these consultations to the Board's Section of Environmental Analysis prior to the commencement of salvage operations.
4. Prior to commencement of any salvage activities, UP shall consult with the U.S. Army Corps of Engineers (USACE) to determine whether a USACE permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) is required.
5. Prior to commencement of any salvage activities, UP shall consult with the U.S. Environmental Protection Agency (USEPA) to ensure any concerns regarding potential contamination of the right-of-way and the need for a Section 402 stormwater permit are addressed. UP shall report the results of these consultations with the Board's Section of Environmental Analysis prior to the onset of salvage activities.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), and discontinuance of service without abandonment. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-33 (Sub-No. 226X) and Docket No. AB-654X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 565-1552, fax at (202) 565-9000, or e-mail at woodd@stb.dot.gov

Date made available to the public: November 21, 2005.

Comment due date: **December 6, 2005.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment